CF0000113555

(3)

IN THE HIGH COURT OF JUDICATURE AT JABALPUR M.P.

WRIT PETITION NO. 3472 of 2000.

Petitioner. ::: Ghanshyam Maher son of Kapoor, aged about 55 years, Occupation- Kotwar, R/o village- Sanodh Tah. Gurur, Distt: Durg M.P.

Versus.

Respondents. : 1). The State of M.P. Through the Secretary Revenue-Dept. Mantralaya, Vallabh-Bhawan-Bhopal.

2). The Collector, Durg, Distt: Durg M.P.

3). Sarpanch Gram Panchayat Sanodh, Tah. Gurur, Distt: Durg M.P.

4). Gramwasi Gram Sanodh, Tah-Gurur, Distt: Durg. M.P.

5). Naib Tahsildar Tah. Gurur, Distt: Durg M.P.

6). Sub-Divisional Officer, (Revenue) Balod- Distt: Durg M.P.

7). Addl. Commissioner, Raipur Divn, Raipur M.P.

8). Board of Revenue, Gwalior M.P.

9). Dr. Lokeshwar Sahu, S/o Sulchand Sahu R/o Vill Sanodh, Tah. Gurur, Durg.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

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(146)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**आदेश पत्रक**

**मामला क्रमांक** WP 3472/2000 **सन्** **200**

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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**07-07-2005**

Miss Sangeeta Mishra, counsel for the petitioner.

Shri P.S. Koshy, Dy. Advocate General for the State of Chhattisgarh/respondents No. 1, 2, 5, 6 and 7.

Shri P.R. Patankar, counsel for respondents No. 3 and 4.

Smt. Meera Jaiswal, counsel for respondent No. 9.

Heard learned counsel for the parties.

The petitioner, being aggrieved by order dated 21-2-2000 passed by the Board of Revenue, Madhya Pradesh at Gwalior in case No. R/170-2/99, filed this writ petition under Article 226/227 of the Constitution of India, praying that the termination order dated 31.3.97 (Annexure-P/13) passed by the Nayab Tehsildar, Gurur, be quashed.

The relevant facts in brief for adjudication of this case are that the petitioner was appointed on the post of Kotwar in the year 1965 and thereafter, he was working as Kotwar of village Sanodh, Tehsil Gurur, District-Durg.

On the basis of following complaints, respondent No. 5 issued a show cause notice dated 7-9-1996 to the petitioner as to why the petitioner be not suspended under Section 230 of the M.P. Land Revenue Code and Rule 5 (1) of Rules regarding

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**आदेश पत्रक**

**मामला क्रमांक** WP 3472/2000 **सन् 200**

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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Appointment, Punishment and Removal of Kotwars and their duties :

1) *For cutting 40 trees from the Government land in Khasra No.167 Rakba 3.33 in Village Sanodh and the offence being proved before Collector and vide order dated 31-5-1996 was penalized of Rs.1,000/- and also ordered for initiating proceeding for terminating his service.*

2) *That he has encroached upon Government land in Village Sanodh in Khasra No.52 and having constructed a house. Have violated the order of stay. The report of the Jamadaar states of your making improper comments against the Court.*

3) *For using the Government land allotted to him for the purpose of making bricks and also illegal excavation.*

4) *The Gram Panchayat, Sanodh had passed a resolution on 20-8-1996 and had charged him of constructing house on service land. And for encroachment, illegal excavation, not patrolling properly and for encouraging crimes in the area and prayed for removal from the post."*

The petitioner was also suspended by order dated 7-9-1996 by respondent No. 5 in exercise of his power under Section 230 of the M.P. Land Revenue Code and Rule 5 (1) of Rules regarding Appointment, Punishment and Removal of Kotwars and their duties.

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**आदेश पत्रक**

**मामला क्रमांक** WP 3472/2000 **सन् 200**

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित -3- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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The respondent No. 5 examined the case of the petitioner in Revenue Case No. 3-A/56 Year 96-97 after issuing notice to the petitioner. The petitioner filed his reply and examined his witnesses. Having considered the arguments of both the parties and perusing the records respondent No. 5 by order dated 31-3-1997 held that the petitioner has encroached upon the forest land and committed cutting of trees & illegal mining operations. The petitioner has committed serious misconduct and in view of serious charges found proved against him, respondent No.5 terminated the services of the petitioner.

The petitioner filed an appeal before the Sub Divisional Officer (Revenue), Balod, District Durg as revenue case No. 69-A/56 Year 1996-97. The Sub Divisional Officer (Reveune)/respondent No.6 after having heard both the parties and considering all the papers of the case confirmed the findings and order passed by the Tehsildar. The appeal was accordingly dismissed on 20-8-1997.

The petitioner has again preferred an appeal against the order dated 20-8-1997 passed by the Sub Divisional Officer (Revenue) in the Court of Additional Commissioner, Raipur Division, Raipur. The Additional Commissioner, Raipur Division, Raipur, in appeal case No.22-A/56/97-98, after

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..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित —५— | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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having considered the submissions of both the parties and perusing the records, dismissed the appeal on 11-1-1999 and confirmed the findings recorded by the Courts below and the order dated 31-3-1997 passed by the Nayab Tehsildar and subsequently order dated 20-8-1997 passed by the Sub Divisional Officer (Revenue), were upheld.

The petitioner thereafter filed a revision before the Board of Revenue, Madhya Pradesh at Gwalior as case No.R/170-2/99. The Board of Revenue again considered the arguments of both the parties and facts of the case and confirmed the findings recorded by the Courts below and upheld the order passed by the Nayab Tehsildar, Sub Divisional Officer (Revenue) in first appeal and Additional Commissioner in second appeal.

This petition is under Article 227 of the Constitution of India i.e. the supervisory jurisdiction of the High Court.

The petitioner has not pointed out any procedural irregularity or any error in application or appreciation of law. He had sufficient opportunities before all the Courts below as the petitioner was respondent before the Nayab Tehsildar and has filed reply and contested the case. Thereafter he was appellant before the Sub Divisional Officer, Additional Commissioner and the petitioner before the Board of Revenue.

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**आदेश पत्रक**

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..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित -5- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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| | I have gone through the record of the case and heard learned counsel for the parties.<br><br>Having considered the facts and circumstances of the case and material on record, I am of view that there is no procedural irregularity or any error in application of law.<br><br>In view of the above, the petition is dismissed. No order as to costs.<br><br>**Sd/-**<br>**Satish K. Agnihotri**<br>**Judge** | |

*Gowri*